

Bernard C. Tolman and Evelyn G. Tolman

v.

Town of Swanzey

Docket No. 4398-88

DECISION

The "Taxpayers" appeal, pursuant to RSA 76:16-a, the "Town's" 1988 assessment of \$77,000 (land, \$11,500, buildings, \$65,500) on Map 20, Lot 8-000, located on Route 32 (the Property). For the reasons stated below, the appeal for abatement is denied.

The Town and the Taxpayers failed to appear, but consistent with our rule, TAX 102.03(g), they were not defaulted. This decision is based on the evidence presented to the Board.

The Taxpayers have the burden of showing the assessment was disproportionately high or unlawful, resulting in the Taxpayers paying an unfair and disproportionate share of taxes. See RSA 76:16-a; Tax 201.04(e); Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985). We find the Taxpayers failed to carry their burden and prove any disproportionality.

The Taxpayers argued in their written appeal that they were overassessed because:

1) the Selectmen allow an illegal sand-and-gravel operation which has ruined the looks of neighboring houses and caused damage to foundations through the operation of heavy equipment (along with diesel fumes, dust, etc.); and

2) there is still an on-going problem with odors from the Keene sewer-treatment plant.

The property assessment card indicates that the Town did make an economic depreciation for the existence of the sewage plant opposite the house. The Taxpayers presented no proof of any further economic depreciation on the Property.

We find the Taxpayers failed to prove their assessment was disproportional.

SO ORDERED.

August 6, 1991

BOARD OF TAX AND LAND APPEALS

Ignatius MacLellan, Esq.

Michele E. LeBrun

I certify that copies of the within decision have been mailed this date, postage prepaid, to Bernard C. and Evelyn G. Tolman, the Taxpayers, and to the Chairman, Board of Selectmen, Town of Swanzezy.

August 6, 1991

Brenda L. Tibbetts, Clerk